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Consumer protection

Report of the Secretary-General

SUMMARY

On 9 April 1985, in resolution 39/248, the General Assembly adopted by consensus guidelines for consumer protection, a document that has been likened to an international consumer bill of rights. In the intervening seven years, the guidelines have often been cited as the single most important set of principles for consumer protection in the world. The present report, prepared pursuant to Economic and Social Council resolution 1990/85, covers the activities set in motion by the Secretary-General under the mandated programme of action through 1995 on the implementation of the guidelines. It demonstrates the impressive impact that the guidelines have had on national, regional and international consumer work. The report concludes that the demand for assistance, particularly by developing and emerging market economies, far exceeds the level of the resources that have been obtained from extrabudgetary resources. It is suggested that member Governments may wish to consider, on the basis of progress already achieved, adopting the measures necessary to provide the required resources to carry out the programme activities envisaged. These include regional seminars on consumer protection, provision of advisory services, a detailed and comprehensive study of measures taken by Governments to implement the guidelines and elaboration of targeted guidelines in emerging areas of concern.

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INTRODUCTION

1. On 9 April 1985, in resolution 39/248, the General Assembly adopted by consensus the guidelines for consumer protection, a document which has been likened to an international consumer bill of rights. Indeed, in the intervening seven years, the guidelines have often been cited as the single most important set of principles for consumer protection in the world. In resolution 1990/85, the Economic and Social Council, aware that the need for assistance in the area of consumer protection, particularly in developing countries, still remained great and recalling its own resolution 1988/61, urged all Governments to continue their efforts to implement the guidelines for consumer protection and encouraged them to collaborate, as appropriate, in joint efforts for the protection of consumers. In so doing, the Council strengthened its earlier mandate, set forth in resolution 1988/61, in which it urged all Governments to implement the guidelines for consumer protection.

2. In resolution 1990/85, the Council also requested the Secretary-General, in cooperation with the development funds and programmes of the United Nations, the regional commissions and other relevant agencies and bodies of the United Nations system, to continue to provide assistance to Governments, in particular those of developing countries and other interested countries, in implementing the guidelines on consumer protection, and to develop a programme of action for the next five years on the implementation of the guidelines. The programme should involve specific activities such as the convening of regional seminars and follow-up activities, a survey of consumer protection measures undertaken within the framework of the guidelines for consumer protection, the provision of advisory services to Governments, in particular those of developing countries, at their request, and the elaboration of specific guidelines in areas of emerging concern. Such a programme, to be reviewed on the occasion of the tenth anniversary of the adoption of the guidelines, should be implemented subject to the availability of extrabudgetary resources.

3. The guidelines, which are annexed to the present report, take into account the interests and needs of consumers in all countries, recognize that consumers often face imbalances in economic terms, educational levels and bargaining power; and bear in mind the importance of promoting just, equitable and sustainable economic and social development. The guidelines provide a framework for use by Governments, particularly those of developing and newly independent countries, in developing, strengthening or maintaining a strong consumer protection policy. The guidelines also have the objective, inter alia, of furthering international cooperation in the field of consumer protection.

4. The present report, prepared pursuant to Council resolution 1990/85, covers the activities set in motion by the Secretary-General and contains information on the impressive impact the guidelines have had on national, regional and international consumer work undertaken by Governments and intergovernmental and non-governmental organizations. This finding accentuates the positive moral force an international consensus can have in a specific sphere of activity.

I. BACKGROUND

5. The adoption by the General Assembly in 1985 of a set of guidelines for consumer protection marked the culmination of nearly a decade of consultations among Governments and international organizations. The subject of consumer protection first appeared in Economic and Social Council resolution 2111 (LXIII) of 4 August 1977, in which the Council requested the Secretary-General to prepare a survey illustrative of the range of institutional and legal arrangements existing in the field of individual consumer protection at the national level. In that resolution, the Council also realized the need to coordinate the work of the United Nations system in respect of the protection of individual consumers. In resolution 1979/74, the Council requested the Secretary-General to prepare a comprehensive report on consumer protection which would include, inter alia, proposals for adequate standards and other measures on consumer production which States could consider adopting and to include in the report his proposals on the organizational arrangements envisaged for carrying out work on consumer protection within the United Nations system. In resolution 1981/62 of 23 July 1981, the Council, conscious of the need for reliance on an international basic policy framework that provided guidance and encouragement for further efforts in consumer protection on a world-wide scale, requested the Secretary-General to continue consultations on consumer protection with the aim of pursuing, inter alia, the elaboration of a set of general guidelines for consumer protection. Draft guidelines were submitted to the Council in 1983; for the next two years those draft guidelines were the subject of consultation among Governments.

6. A number of ad hoc inter-agency meetings on consumer protection were held during those years, under the auspices of the Administrative Committee on Coordination, to discuss substantive issues related to the preparation of the various reports of the Secretary-General required for submission to the Council. In this connection, a consultation was also organized in 1981 at the headquarters of the Economic Comission for Asia and the Pacific (ESCAP) to elucidate priority needs for the protection of consumers in developing countries and to consider how international organizations might best assist Governments in meeting such needs. The recommendations emanating from that consultation became an input into the discussion among Governments on the development of the guidelines. With the adoption of the guidelines, this organized process of consultation came to an end.

7. The specialized agencies and other organizations and programmes of the United Nations system have nevertheless continued to serve the needs of Governments in the areas of their respective competences. These activities are described below, in the subsection on system-wide implementation of the guidelines. The Department of Economic and Social Development of the United Nations Secretariat, which has the lead responsibility for assisting Governments in the implementation of the guidelines, has undertaken a number of activities, including the organization of regional seminars and the preparation of studies, subject to availability of extrabudgetary resources. The Department of Economic and Social Development is also responsible for overall United Nations system coordination in this area.

8. In the following discussion, it is suggested that there is scope for the Secretary-General's giving greater focus to consumer protection, which is so central to the well-being of people, inter alia, through structured consultations among the various bodies concerned.

II. IMPLEMENTATION OF ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1990/85

9. While the adoption by the Economic and Social Council of resolution 1990/85 accentuates the importance member Governments assign to the implementation of the guidelines for consumer protection and the need for assistance in this regard, the extent to which the Secretary-General has been able thus far to undertake the activities called for in the programme of action has been limited by constraints in the area of extrabudgetary resources.

10. Following the adoption of Council resolution 1990/85, the former Department of International Economic and Social Affairs of the United Nations Secretariat, whose responsibilities have been incorporated within the Department of Economic and Social Development of the United Nations Secretariat, elaborated project proposals and sent letters to prospective donors. Partial funding has thus been obtained for the convening of a regional seminar on consumer protection for Eastern Europe to take place in Vienna in September 1992. The meeting, which is being organized jointly by the Department of Economic and Social Development and the International Organization of Consumers Unions (IOCU), is being sponsored with the assistance of the Governments of Austria and Australia and of the United Nations Development Programme (UNDP). The Department of Economic and Social Development has also commissioned studies on two areas of emerging concern, the financial services sector and ecoconsumerism, with the aim of elaborating targeted guidelines for the protection of consumers.

11. The guidelines are of continued importance and relevance to Governments in both developed and developing countries. In countries where government interest in consumer protection is relatively recent, those guidelines define essential issues to be dealt with. In countries where consumer law is more developed, they provide a check-list against which existing laws can be evaluated to determine whether certain areas need strengthening and to help pinpoint any gaps that may exist.

12. In carrying out the activities mandated by the Economic and Social Council, the Secretary-General has enjoyed a particularly fruitful collaboration with IOCU, a world-wide organization of 174 national, quasi-governmental, regional, umbrella and independent consumer groups in 67 countries. Founded in 1960 and financed by members' fees and sales of its publications, it links the activities of consumer groups throughout the world. Through its regional offices in The Hague, Penang and Santiago, and its liaison offices in Warsaw, Dakar and Harare, IOCU supports its members and encourages newly formed groups in developing countries by means of information networks, seminars and workshops. It attracts world-wide attention each

15 March through the celebration of World Consumer Rights Day. Significantly, in 1991 its theme was the right to consumer protection, as recognized by the guidelines. In this connection, IOCU prepared a briefing kit for organizations to use to increase community and government awareness of the guidelines, and member organizations translated the guidelines into languages ranging from Turkish to Maori. Case-studies and other material were prepared for dissemination to the media, which reported around the globe on activities undertaken to commemorate the guidelines.

13. IOCU has supported the work of the United Nations in fulfilling its mandate on consumer protection. It is collaborating with the Department of Economic and Social Development of the United Nations Secretariat in the organization of the regional seminar on consumer protection for Eastern Europe and has provided expertise to the regional seminars for Latin America and the Caribbean (1987) and for Asia and the Pacific (1990). IOCU has also taken an active role in follow-up on the recommendations stemming from the seminars. These activities are covered below, under the heading of regional and international cooperation.

14. A representative of the Department of Economic and Social Development of the United Nations Secretariat participated in the 13th IOCU World Congress (a triennial event), which was held in Hong Kong in July 1991, by taking part in a workshop on the implementation of the guidelines. At this meeting of over 500 world consumer leaders, 17 resolutions were adopted on substantive issues of concern to consumers, such as health, food, sustainable agriculture, consumer education, pesticides, breast-milk substitutes, water and green consumerism. Those resolutions supported the ongoing work of the United Nations system in these areas calling, where appropriate, for strengthened collaboration among, and implementation of the various initiatives of the system by, Governments. The system's activities are discussed in the present report under the heading of system-wide implementation of the guidelines.

A. Implementation of the guidelines by Governments

15. The governmental role in consumer protection is vital and finds expression through policy-making, legislation and the development of institutional capacity for its enforcement. To provide a legal basis for enforcing basic consumer rights, every country needs to have an irreducible minimum of consumer protection legislation, covering physical safety, promotion and protection of consumers' economic interests, standards for the safety and quality of goods and services, distribution facilities, redress, and education and information programmes. Governments also require the necessary machinery to enforce such legislation.

16. The guidelines encourage Governments to develop, strengthen or maintain a strong consumer protection policy. In so doing, each Government must set its own priorities for the protection of consumers in accordance with its economic and social circumstances and the needs of its population.

17. The Economic and Social Council, in its resolutions 1988/61 and 1990/85, urged all Governments to implement the guidelines and encouraged Governments to collaborate, as appropriate, in joint efforts for the protection of consumers. In the seven years since the guidelines were adopted, there have been reports, mainly from IOCU, of actions taken by individual Governments in implementing those guidelines. The regional seminars held by the United Nations for government policy makers and consumer representatives in Latin America and the Caribbean, Asia and the Pacific, and Eastern Europe emerged from requests by Governments in those regions for assistance in implementing the guidelines. Those seminars have also led to concrete follow-up, which is reported below under regional and international cooperation.

18. Within the context of the programme of action through 1995, the Economic and Social Council requested that a survey of consumer protection measures undertaken by Governments be carried out. As a first step, detailed questionnaires were sent to all member Governments, designed not only to ascertain recent developments in consumer policy, but also to identify areas where Governments felt a need for assistance from the United Nations system. Respondents were requested to report on the actual utilization of the guidelines in developing consumer policy and in setting up appropriate structures to carry out such policy.

19. Governments of both developing and developed countries reported that the guidelines had had a significant impact on their work in this area. The Government of New Zealand, for example, wrote that the guidelines had underpinned all aspects of the work of the Ministry of Consumer Affairs. The Government of the Netherlands had used the guidelines as a point of reference in the evaluation of Dutch consumer policy. In 1991, the Advisory Committee for Consumer Affairs of Finland had adopted a consumer policy programme, using the guidelines as a point of reference. The guidelines had currently been playing an important role in Eastern Europe, where draft laws based on the guidelines were being considered in a number of countries. The Federal Ministry of Control of Czechoslovakia wrote that the guidelines had unified the views of various authorities and organizations in the country and had been used as the basis for a draft law. It stated, with respect to the guidelines document, that "its clarity, intelligibility and strength as an instrument of support for the implementation of consumer protection is highly appreciated". The guidelines were being used in the daily work of government officials in Poland and as a basis for reforms.

20. Developing countries that responded to the questionnaire emphasized the importance of the guidelines to their concerns. The Consumer Affairs Commission of Jamaica had included the guidelines in its information kit for press and other organizations and planned to take the guidelines into consideration in future actions, including the possible elaboration of a consumer policy. The Government of Malaysia had developed legislation in line with the guidelines and was now considering drafting a comprehensive consumer protection law based on them. The guidelines had also been used in the development of consumer policy in Malta. All developing countries responding to the questionnaire requested assistance from the United Nations system in

the training of officials concerned with consumer policy and in the development of consumer education and information programmes. Support for infrastructure, such as in the development of product-testing laboratories, was also requested. A number of Governments also asked for the convening of seminars in Africa, Eastern Europe and Latin America and the Caribbean. The Government of Argentina proposed that the United Nations should convene an international seminar so that government officials could exchange information, discuss a model law, elaborate methodology for the dissemination of information to consumers and formulate a project for technical assistance on the basis of the conclusions reached and offered to act as host to such a meeting, which could take place in 1993.

21. The enthusiastic responses received acknowledge the continued value of the guidelines for all Governments, whether of developed or developing countries, and indicate the ongoing need for assistance by the United Nations system in helping Governments to develop and strengthen mechanisms for the protection of their populations as consumers.

B. Regional and international cooperation

22. The guidelines place emphasis on international cooperation in the field of consumer policy. Indeed, consumer problems transcend national borders and transfrontier disputes are requiring increasing international attention in their settlement. Cooperative activities can be of great value in enabling countries to draw on each other's experiences and avoid unnecessary duplication of efforts. Often, joint activities among Governments at the regional level, particularly with respect to testing and training and the exchange of consumer information and education programmes, lead to enhanced results.

23. The guidelines recommend the development of cooperative measures in a regional or subregional context. To date the United Nations has organized three regional seminars in order to tap the great potential for developing and strengthening mechanisms on a regional basis for the sharing of experiences and the pooling of resources for the more efficient use of technical research and training facilities.

24. Following the adoption of the guidelines, the first regional seminar on consumer protection was held for the Latin American and Caribbean region at Montevideo, Uruguay, from 9 to 11 March 1987. It was attended by participants from 20 countries, as well as by observers from donor Governments, intergovernmental organizations and non-governmental organizations. The meeting was financed by the Governments of Norway and Spain and by UNDP.

25. Specific recommendations were adopted with regard to areas that were considered to be of priority for the region. It was decided that an informal communications network was to be set up among the organizations of the region dedicated to consumer protection and that the creation, development and use of national and international data banks was to be encouraged. IOCU developed a

model law on consumer protection, based on the guidelines and taking into account Latin American and Caribbean legal experience. The model law, which is a dossier of existing laws and regulations in the region, has been used as a guide by a number of countries in their consideration of new legislation. Over the next five years, the Government of Brazil raised consumer protection to constitutional level and adopted a consumer protection law. The Governments of Argentina, Chile and Uruguay have new laws under parliamentary discussion. Recent measures have been taken by the Governments of Honduras and Peru. The Governments of Mexico, Chile and Uruguay have strengthened or created new institutional structures for consumer protection.

26. Government officials and consumer representatives attended a regional meeting held in Santiago in November 1990. At that meeting, which was organized by IOCU, the Economic Commission for Latin America and the Caribbean (ECLAC) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), it was decided that IOCU had an important role to play in assisting Governments in the implementation of the guidelines. Specific recommendations were adopted with respect to consumer access to basic goods and services, consumer education and mechanisms for the enforcement of legislation.

27. A follow-up meeting was held in December 1991 in Santiago. At this juncture representatives of IOCU, UNESCO, ECLAC and the Governments of Argentina, Cuba and the Dominican Republic recommended that each Government in the region prepare a brief on the development of consumer protection since 1985 and proposals for assistance through 1995. Specific requests have focused on strengthening regional information exchange mechanisms with respect to product quality and standards, consumer education and cooperation in regional integration. At this meeting there was a proposal submitted to the United Nations (in light of the success of the 1987 meeting and of the need for continued assistance to Governments of the region) for a second regional seminar on consumer protection to be held under United Nations auspices. For such an event to take place, it will be necessary to obtain the requisite resources.

28. The United Nations Regional Seminar on consumer protection for Asia and the Pacific took place at the Economic and Social Commission for Asia and the Pacific (ESCAP) headquarters in Bangkok from 19 to 22 June 1990. The meeting was attended by participants from 19 countries as well as by experts and representatives of organizations of the United Nations system and non-governmental organizations. The meeting was financed by the Government of Australia and UNDP with a small grant from the American Express Foundation.

29. The Economic and Social Council, in resolution 1990/85, noted with satisfaction the recommendations of the Seminar. Forty-five specific and action-oriented recommendations had been adopted. Those recommendations have laid the groundwork for follow-up activities. At the seminar, the Government of Australia made a commitment of a three-year grant to IOCU for follow-up work in the South Pacific. In February 1992, IOCU held a subregional workshop in Samoa on consumer education and law for government officials

where a model consumer protection law for the South Pacific based on the guidelines was discussed. IOCU also held a training seminar in Hanoi in August 1990 at which participants from Viet Nam, Cambodia, the Lao People's Democratic Republic and Myanmar called for the speedy implementation of the guidelines through their national legislation. At the 1990 seminar, the Government of Japan stated its intention of following up on the recommendations at the regional level by holding a meeting on consumer policy for government officials.

30. In recognition of the importance of the guidelines in regional work, member Governments adopted a resolution at the ESCAP meeting in April 1992. The resolution called upon the executive secretary, in cooperation with non-governmental organizations and development funds and programmes of the United Nations, and other relevant bodies and agencies in the United Nations system, to promote the implementation of the guidelines for consumer protection, initiate specific activities to follow up on the recommendations of the 1990 United Nations Regional Seminar on Consumer Protection for Asia and the Pacific and seek such extrabudgetary contributions as might be necessary for that purpose.

31. In Central and Eastern Europe, the transition of Governments to a market economy has involved much hardship and adversity for consumers. In the market for a particular product, there may be only one manufacturer or supplier, either publicly or privately owned. Even if there are two or more manufacturers or suppliers, that situation may involve competing consumers trying to buy goods or services, rather than competing sellers trying to attract consumers. Supplies may be scarce or non-existent and prices may be so high as to deny consumers access. Consumers may also lack the information on goods and services that is necessary to make informed choices. The vulnerability of consumers in such a situation points to the need for effective competitive markets and consumer policies. In the last several years, voluntary consumer organizations have sprung up in the region, mirroring the appearance of consumer policy on the agenda of most of the region's Governments.

32. Indeed, at a seminar organized by the Organisation for Economic Cooperation and Development (OECD) on consumer protection in market economies, held in Vienna from 21 to 23 April 1991, representatives from Central and Eastern Europe (some meeting their Western counterparts for the first time) stated that they had been using the guidelines to persuade their Governments to develop consumer policy. In some cases, such as Hungary, Czechoslovakia and the former Union of Soviet Socialist Republics, legislation had been prepared that was consistent with the guidelines.

33. Several Governments in the region requested the United Nations to hold a seminar on consumer protection that would focus on addressing their specific needs. Preparations for the seminar, which is being jointly organized by the Department of Economic and Social Development of the United Nations Secretariat and IOCU and will be attended by both governmental and non-governmental representatives, are currently under way.

34. Governments in Africa require urgent assistance for their consumers. The need, particularly of the poorer and most vulnerable segments of the population, for safe and adequate food, shelter and medical services is well documented. Legal measures need to be established as well as structures to ensure their enforcement.

35. While IOCU maintains liaison offices in Dakar and Harare, the level of representation of African consumer groups in the organization is still low. Lawyers in Kenya, Senegal and Zimbabwe, where legislation is based on different systems, are currently undertaking research comparing their national laws with the guidelines. IOCU will be following up on this research in July 1992 with two workshops, to be held in Dakar for West Africa and in Harare for East and Southern Africa. It is anticipated that both the research and the identification of priorities scheduled to take place at the workshops will constitute input to a regional seminar on consumer protection to be organized by the Department of Economic and Social Development of the United Nations Secretariat once the necessary resources have been obtained.

36. A seminar in Africa would help Governments become more familiar with work already under way in other regions and provide the scope for development of appropriate measures in support of national populations. The seminar would also allow for an exchange of information on experiences at the country level and would facilitate common efforts in the future, for example, in the use of joint testing facilities.

C. System-wide implementation of the guidelines

37. The guidelines document covers many broad areas of concern to consumers, many of which are addressed by organizations of the United Nations system. While the survey that follows gives an idea of what is involved in such work, based on the replies received, it should be noted that most organizations have not used the guidelines as the framework for formulating their activities in this field, which often predated adoption of the guidelines in 1985. In recent years, however, there has been an increase in interest and activity relating to the guidelines, stemming from the focused attention given to consumer protection through implementation of Economic and Social Council resolutions 1988/61 and 1990/85 and from heightened international scrutiny of the environment and related safety and quality issues. These activities are likely to gain increased impetus in coming years.

38. The guidelines document calls for Governments to give priority to areas of essential concern for the health of the consumer, namely, food, water, pharmaceuticals, pesticides and chemicals. As those areas touch on environmental policy as well, they have come under increased international attention, particularly in light of the preparations for the United Nations Conference on Environment and Development, to be held in Rio de Janeiro in June 1992. With regard to the consumer, the guidelines state that government policies should be adopted or maintained for product-quality control, adequate

and secure distribution facilities and standardized international labelling and information, as well as for education and research programmes.

39. The Food and Agriculture Organization of the United Nations (FAO) is implementing a number of projects and programmes in the area of food safety and standards. Specifically, it provides advice and technical assistance in food-quality control at the national level, inter alia, through the training of technical personnel.

40. The joint FAO/World Health Organization (WHO) Codex Alimentarius Commission, comprising 137 member countries, formulates standards on safety for a wide range of commodities and foods, pesticide residues in food, additives and contaminants. Governments are invited to accept those standards and incorporate them in national legislation. The Codex Alimentarius also elaborates Codes of Practice as guidelines for Governments and promotes the adoption of open date marking and ingredient labelling. The FAO/WHO model food law, as well as the Codex recommendations for comprehensive regulations on food quality and safety, can be adapted to country needs. The FAO/WHO Conference on Food Standards, Chemicals in Food and Food Trade, held in Rome in March 1991, recognized the importance of including representative consumer views in all decisions pertaining to food quality and safety matters.

41. Special attention is being given by FAO to the need for improved food handling at the village and household levels. Workshops on this subject have resulted in recommendations to national Governments and action programmes for better consumer education and training of food handlers to achieve maximum consumer protection.

42. These activities are complemented by those of the United Nations Educational, Scientific and Cultural Organization (UNESCO), which offers assistance in the areas of teacher training and curriculum development for food safety. These efforts are targeted at the nutritional health and well-being of consumer groups, especially children and mothers, to prevent food-borne infections and contamination of foods.

43. The WHO Food and Safety Programme is geared towards the protection of consumers from unsafe or potentially unsafe foods. WHO collaborates with Governments of developing countries in developing and revising food legislation and in strengthening measures to enforce food laws and regulations. It also has projects on the integration of food safety into health educational programmes.

44. The WHO/United Nations Children's Fund (UNICEF) International Code of Marketing of Breast-milk Substitutes, adopted in 1981, is aimed at the protection of a vulnerable group of consumers, that is, infants and young children. It encourages high levels of ethical conduct for enterprises that produce and distribute breast-milk substitutes. In the years following, more than 150 countries took action to put the Code into effect.

45. In addition to its role in implementing the programme of action on consumer protection, the Department of Economic and Social Development of the United Nations Secretariat also has responsibility, within its regular programme, for the publication of the Consolidated List of Products Whose Consumption and/or Sale Have Been Banned, Withdrawn, Severely Restricted or not Approved by Governments. In its work, the Department of Economic and Social Development cooperates with WHO and the United Nations Environment Programme/International Register of Potentially Toxic Chemicals (UNEP/IRPTC). The purpose of the List is to consolidate all information on products harmful to health and the environment, based on the work of relevant intergovernmental organizations that include, in addition to WHO and UNEP, the General Agreement on Tariffs and Trade (GATT), FAO and the International Labour Organisation (ILO). The current issue (fourth edition) of the List, 1/ published in 1991, contains information on restrictive regulatory measures taken by 92 countries on close to 700 pharmaceuticals, agricultural and industrial chemicals and consumer products. The List is widely used by Governments and non-governmental organizations in considering the scope for regulatory measures at the national level. Pursuant to resolutions of the General Assembly, the List is reviewed every three years with a view to determining its continued usefulness. A detailed review of the work of the United Nations system in the area of protection against products harmful to health and the environment is contained in the report of the Secretary-General on this subject (A/47/...-E/1992/...).

46. UNEP and FAO are collaborating in the implementation of a programme on prior informed consent (PIC) with respect to agricultural, industrial and consumer chemicals. Accordingly, an international shipment of a chemical or pesticide that is banned or severely restricted, or is known to be causing health or environmental problems, will not proceed without the explicit agreement of the designated national authority in the importing country (pursuant to that authority's having been provided with all the relevant information). Both FAO and UNEP, together with the United Nations Institute for Training and Research (UNITAR), are undertaking activities to train government officials in the operation of the PIC procedure and to strengthen the regulatory capability of developing countries.

47. WHO administers the Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce, based on a set of standards for good practice in the manufacture and quality control of drugs, adopted in 1969 by the World Health Assembly.

48. The Certification Scheme is an administrative instrument that requires each participating member State, upon application by a commercially interested party, to attest to the competent authority of another participating member State whether a specific product is authorized to be placed on the market within its jurisdiction; whether the plant in which it is produced conforms to good manufacturing practices; and whether all submitted product information, including labelling, is currently authorized in the certifying country.

49. Each certifying authority should inform WHO and all competent national authorities of any serious hazards newly associated with a product exported under the provisions of the Certification Scheme and of any fraudulent representation made in respect of a certified product. WHO then transmits the message to the competent national authorities in each member State.

50. WHO, together with UNEP and the International Labour Organisation (ILO), administers the International Programme on Chemical Safety. Under the Programme, chemicals are evaluated for risk to human health and technical assistance is provided to countries to strengthen their infrastructure for safe chemical production, importation, transportation, storage and disposal. In 1990, the ILO General Conference adopted a Convention concerning Safety in the Use of Chemicals at Work, which contains provisions on labelling.

51. In 1989, the General Agreement on Tariffs and Trade (GATT) established a Working Group on the Export of Domestically Prohibited Goods and Other Hazardous Substances. This Group is considering the establishment of a notification system for products that are domestically banned or severely restricted but still exported. That system would cover the products not already covered under other international agreements.

52. Twenty different organizations of the United Nations system, including the Department of Economic and Social Development of the United Nations Secretariat, the regional commissions and various specialized agencies, are active in specific areas of water resources development and management. The promotion of cooperation and coordination with respect to the activities of the system is carried out through the Intersecretariat Group for Water Resources of the Administrative Committee on Coordination (ACC). These efforts are supplemented through a Steering Committee for Cooperative Action for the International Drinking Water Supply and Sanitation Decade. In a broader context, the Collaborative Council for Water Supply and Sanitation provides a forum for multilateral and bilateral external support agencies, including the organizations of the United Nations system, non-governmental organizations and professional associations, as well as developing countries.

53. The Mar del Plata Action Plan 2/ of the 1977 United Nations Water Conference established the basic framework for action at the national and international levels. More recently, the International Conference on Water and the Environment: Development Issues for the Twenty-first Century, held in Dublin in January 1992, provided recommendations for action in the 1990s with a view to ensuring the sustainable development of water resources.

54. The United Nations Conference on Trade and Development (UNCTAD) carries out activities for the promotion and protection of the economic interests of consumers. In 1980 the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices was adopted by the General Assembly in resolution 35/63. UNCTAD is also preparing a draft model law for the control of restrictive business practices.

55. FAO is addressing the promotion and protection of consumers' economic interests by supporting market price collection and market information systems in a number of countries to enhance market transparency and to provide a competitive environment. Standards for the safety and quality of consumer goods are being promoted through advice on the introduction of appropriate grading standards for basic food staples and horticultural produce and on improved handling and transportation of produce to reduce spoilage.

56. In order to improve both consumer access to food supplies and distribution facilities for essential consumer goods, FAO is involved in planning and advising on improved marketing facilities in both urban and rural areas. It is producing a series of manuals on the planning and operation of wholesale and assembly markets as well as on improved retail market planning and operation. FAO is collaborating with ILO in promoting village-level grain storage facilities in the Sahel countries to improve consumer access to food supplies.

57. ILO has projects for the establishment of networks of consumer retail societies as well as wholesale societies through which basic consumer goods of good quality are made available to the general public at minimum cost. It also undertakes projects promoting small-scale cottage industries that use production and packaging techniques drawing on available raw materials that satisfy local consumer preferences.

58. ILO is also active in the area of standard setting. ILO's Occupational Safety and Health Convention, Guarding of Machinery Convention, Benzene Convention, Occupational Cancer Convention and Asbestos Convention, as well as its Convention concerning Safety in the Use of Chemicals at Work, are all concerned with the safety of the consumer at the workplace.

59. UNDP has financed a number of programmes and projects in the area of consumer protection, covering consumer cooperatives, credit schemes and training and advisory services in the fields of standard setting, quality control and marketing. With respect to measures relating to specific areas, UNDP has provided financing for projects in the area of food and water security, including improved transport and storage facilities, control of contamination and enforcement of higher standards. UNDP has also contributed to the regional seminars on consumer protection for Latin America and the Caribbean, for Asia and the Pacific and for Eastern Europe.

60. The World Intellectual Property Organization (WIPO) is concerned with the protection of consumers in the area of industrial property, particularly with respect to laws on trade marks, trade names and competition. WIPO has worked to set norms, establish model laws and assist developing countries in creating or updating intellectual property systems.

61. The World Tourism Organization (WTO) is concerned with the consumer of goods and services during travel, in places of touristic interest and at tourist facilities. At present, its activities include the analysis of information from Governments on security and protection measures, as well as

the preparation of standards for means of transport and accommodations used by the handicapped.

62. The International Civil Aviation Organization (ICAO) plays a major role in the development of universal standards and recommended practices for civil aviation. It assists Governments in developing legislation and policies to protect consumers in the area of air transport, inter alia, in connection with such subjects as fare guarantees, baggage and denied boarding. ICAO is developing a Code of Conduct for the Regulation and Operation of Computer Reservation Systems. Its policies on taxation of international air transport are also designed to assist countries in achieving adequate protection for their population as consumers.

D. Activities of non-governmental organizations

63. A stated objective of the guidelines is to facilitate the development of independent consumer groups, which should have the freedom to present their views in decision-making processes affecting them. The guidelines state that consumer organizations should be encouraged to monitor adverse practices, such as the adulteration of foods, false or misleading claims in marketing and service frauds. Business and consumer groups should also be encouraged by Governments to formulate codes of marketing and other business practices to ensure adequate consumer protection. Consumer groups have a role to play as well in undertaking education and information programmes, particularly for low-income populations.

64. Promoting the growth of a strong consumer movement and increasing protection for people in their role as consumers are central aims of IOCU's work. To this end, IOCU assists newly formed consumer groups in developing countries. IOCU's independence is guaranteed by strict membership rules - organizations that join must be non-profit-making and non-commercial and must operate exclusively in the consumer's interest.

65. IOCU is in category I consultative status with the Economic and Social Council. As indicated above, IOCU has cooperated with the Department of Economic and Social Development of the United Nations Secretariat in efforts to promote the implementation of the guidelines. It is also involved in various initiatives of UNDP, UNICEF, UNESCO, WHO, FAO, UNEP, ESCAP and ECLAC. In 1986, IOCU was admitted into official relations with WHO, with which it collaborates in various programmes relating to the health of women and children. These programmes concern, inter alia, implementation, jointly with UNICEF, of the International Code of Marketing of Breast-milk Substitutes, combating of smoking, promotion of the concept of essential drugs and dissemination of information on chemical and food safety. IOCU has also participated in the Nutrition Working Group of the NGO Committee on UNICEF and in the work of the Codex Alimentarius Commission and attended the FAO/IAEA/WHO meetings on food irradiation. IOCU is represented at the Council Committee on Consumer Policy of the International Organization for Standardization and is in consultative status with the Council of Europe and other intergovernmental bodies.

66. The International Organization for Standardization (ISO), a federation of national standards bodies from some 90 countries, is also in category I consultative status with the Economic and Social Council. The main contributions of ISO to the Economic and Social Council are through the regional commissions, the United Nations Centre for Human Settlements (Habitat), UNCTAD and UNEP. In addition, ISO actively collaborates with the United Nations Industrial Development Organization (UNIDO), FAO, GATT, the International Atomic Energy Agency (IAEA), ICAO, ILO, the International Maritime Organization (IMO), the International Telecommunication Union (ITU), the Universal Postal Union (UPU), UNESCO, WHO, WIPO and the World Meteorological Organization (WMO) and works in particularly close collaboration with the Codex Alimentarius Commission. ISO promotes the development of international standards in all fields except that of electrical and electronic engineering standards, which are the responsibility of the International Electrotechnical Commission (IEC). Together, ISO and IEC form the world's largest non-governmental system for voluntary industrial and technical collaboration at the international level. Some 450 international organizations are in liaison with ISO. By 1991 the work of ISO had resulted in nearly 8,000 international standards.

67. The ISO Council Committee on Consumer Policy (COPOLCO) conveys the requirements of consumers to ISO member bodies or technical bodies, where appropriate, in the form, inter alia, of resolutions, statements and guides, which are discussed and approved during meetings, for subsequent submission to the Council. COPOLCO also holds annual workshops for consumer representatives, public authorities, manufacturers and experts on such subjects as product safety, consumer information, packaging, energy saving, child safety and the advantages of world standards for consumers. Recent contacts have been established between the Department of Economic and Social Development of the United Nations Secretariat and COPOLCO/ISO.

68. The International Cooperative Alliance (ICA), which is in category I consultative status with the Economic and Social Council, is composed of 203 national and international cooperative movements from 77 countries. ICA collaborates with UNDP, UNCTAD, the United Nations Capital Development Fund (UNCDF) and the regional commissions, as well as with ILO, FAO, UNESCO, UNIDO and the World Bank. ICA has a Consumer Committee, focusing on the development of consumer cooperatives. The Committee celebrates International Consumers Day every 15 March. The 1991 message called upon more than 132 million consumer cooperatives to work towards improving the environment.

III. AREAS OF EMERGING CONCERN

69. In the previous report of the Secretary-General on consumer protection (E/1990/76 and Add.1), it was noted that several global issues had emerged in recent years that needed to be considered in tandem with consumer policy. Those issues included environmental concerns, the global information revolution and its impact on financial services and the effect of the growth of advertising and the mass media on information available to consumers, as

well as the globalization of manufacturing, production and distribution systems. The Economic and Social Council recognized that there was scope for assistance to Governments, at their request, in addressing these and other areas and called upon the Secretary-General to elaborate specific guidelines as part of his programme of action. The scope of activities that can be undertaken in these areas is quite vast. However, due to the constraints on resources to date, it has been possible only to initiate studies on the environment and the financial services sector.

A. Environment

70. There is a strong link between the production, consumption and disposal of goods and services and a sustainable environment. In recognition of the significant role consumer behaviour plays in either exacerbating or alleviating environmental problems, the traditional consumer concern for "value for the price" has broadened to encompass responsibility for the environment.

71. Consumer leaders attending the 13th IOCU World Congress in 1991 adopted a resolution on green consumerism, in which they recognized the right and responsibility of consumers to a clean and safe environment and called upon Governments and consumer organizations to increase cooperation in developing methodologies and criteria for the ecological evaluation of products and services and to support eco-labelling programmes.

72. The Department of Economic and Social Development of the United Nations Secretariat is currently undertaking a study to determine the scope for elaborating targeted guidelines in this area. The guidelines address the subject of environment directly only in so far as they call for its inclusion in education and information programmes; nevertheless, considerable emphasis is placed on the protection of consumers from products hazardous to their health and to the environment.

73. The study's examination of the scope of environmentally sound design of consumer products includes consideration of increased durability, recyclability and reparability; optimization of the use of irreplaceable raw materials; minimization of energy consumption and emissions over the product's whole life cycle; and reduction of the generation of waste. It is necessary, to this end, to develop international standards for the environment-related performance of consumer products. Such an aim has yet to be achieved.

74. Countries will also require facilitated access to standards, standard development and verification methods and technologies. Activities geared to the sharing of performance and verification standards and the transfer of appropriate technologies will be necessary.

75. It will also be incumbent upon public officials and consumers to have access to data regarding the environmental impacts of products. Training and information programmes are required to fill in the gaps in this regard.

Furthermore, there is a need for business to practise accurate advertising, which must be based on agreed-upon standards and testing methodologies.

B. Financial services and the consumer

76. The Department of Economic and Social Development of the United Nations Secretariat is undertaking a study on the financial services sector, with an emphasis on banking, insurance and securities. It is anticipated that this study will serve as a technical background paper for an expert group meeting in the near future. Policy makers, academicians and business leaders will examine the entire balance sheet of consumer opportunities and hazards with an aim of elaborating targeted guidelines.

77. There are at present three strong currents of change in retail markets for financial services: internationalization, deregulation and technological innovations. Liberalization of entry to foreign financial institutions has already occurred in most developed countries, while international take-overs, mergers, cross-shareholdings and networking agreements are increasingly common. Developing countries are faced with difficult choices and with the need to find an optimal balance, inter alia, in monitoring the relationship between national domestic savings and national domestic investment.

78. Recently, many countries have seen the partial or complete removal of government controls over interest rates, volume of credit and pricing of financial services. Structural boundaries between different types of financial institutions are also being allowed to disappear, so that all-purpose financial conglomerates are beginning to emerge. It is a challenge to ensure that the interests of individual consumers are taken into account in this shift.

79. Technological innovations such as electronic funds transfer and telephone and computer-based home banking, while constituting phenomena that are largely confined to the developed world, are nevertheless affecting developing countries as well. Of possible concern to consumers in this regard are one-sided contracts for electronic services and the exposure of personal financial data.

80. The study will examine consumer-related issues in the financial services sector, including geographical and economic access to financial institutions, choice of products, information and disclosure, security against economic loss induced by institutional collapse and redress.

IV. CONCLUSIONS

81. In adopting the guidelines in 1985, member States clearly recognized that consumer protection can no longer be seen strictly in domestic terms. In the subsequent seven years, increasing globalization of manufacturing, production and distribution systems; effects of the global information revolution on the

financial services sector; pending unification of the European Community and emergence of market economies in Eastern Europe; growing concern over a deteriorating environment; and disputes over transboundary trade issues have led to a stronger sense of a global market-place and the need for a global response to market failures.

82. In tandem with these developments, there has been growing recognition that consumer policy is essential to the effective workings of modern market economies. Indeed, what is good for the consumer is good for the economic profile of countries as well, leading to growth, competition and the expansion of world trade. Governments of both developing and developed countries have stressed the importance of the guidelines for consumer protection as a framework within which they have elaborated and strengthened consumer policy. The moral force of this international consensus has given countries the impetus to introduce general laws and raise consumer policy to the constitutional level.

83. The preceding paragraphs provide a summary of the steps taken by the Secretary-General to fulfil his mandate, pursuant to Economic and Social Council resolution 1990/85. The Department of Economic and Social Development of the United Nations Secretariat, which has the lead responsibility in this regard, has elaborated project proposals for extrabudgetary financing within the scope of the programme of action through 1995. Those proposals relate to the convening of regional seminars, provision of advisory services, study of measures adopted by Governments on consumer protection and the development of targeted consumer protection guidelines on eco-consumerism and the financial sector. The proposals were submitted to potential donor Governments for consideration shortly after the Council resolution was adopted. However, very limited resources have been forthcoming so far for the convening of a regional seminar on consumer protection for Eastern Europe.

84. As indicated in the present report, the demand for assistance, particularly by developing and emerging market economies, far exceeds the current capacity of the Secretariat to meet it from the regular budget. Requests for regional seminars in other parts of the world, training and advisory services and education and information programmes based on the guidelines have been received from many Governments.

85. There are no resources available at present to carry out the international programme for consumer protection. Member Governments may wish to consider, on the basis of progress already achieved and the continuing need for assistance, adopting the necessary measures that will provide for resources required to carry out the programme activities envisaged.

86. Should such support be forthcoming, it is anticipated that by 1995, at the time of a full review of the programme of action called for by the Council, a number of activities will have already been set in motion or completed, including (a) a regional seminar on consumer protection for Africa, (b) a regional seminar on consumer protection for Latin America, (c) a detailed and comprehensive study of measures taken by Governments to implement

the guidelines for consumer protection, (d) the elaboration of targeted guidelines for eco-consumerism and the financial services sector for consideration by the Council, and (e) coordination within the United Nations system structured to best meet the needs of consumers.

Notes

1/ United Nations publication, Sales No. E.91.IV.4.

2/ Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977 (United Nations publication, Sales No. E.77.II.A.12), chap. I.

Annex

GUIDELINES FOR CONSUMER PROTECTION

I. OBJECTIVES

1. Taking into account the interests and needs of consumers in all countries, particularly those in developing countries; recognizing that consumers often face imbalances in economic terms, educational levels, and bargaining power; and bearing in mind that consumers should have the right of access to non-hazardous products, as well as the importance of promoting just, equitable and sustainable economic and social development, these guidelines for consumer protection have the following objectives:

(a) To assist countries in achieving or maintaining adequate protection for their population as consumers;

(b) To facilitate production and distribution patterns responsive to the needs and desires of consumers;

(c) To encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers;

(d) To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers;

(e) To facilitate the development of independent consumer groups;

(f) To further international cooperation in the field of consumer protection;

(g) To encourage the development of market conditions which provide consumers with greater choice at lower prices.

II. GENERAL PRINCIPLES

2. Governments should develop, strengthen or maintain a strong consumer protection policy, taking into account the guidelines set out below. In so doing, each Government must set its own priorities for the protection of consumers in accordance with the economic and social circumstances of the country, and the needs of its population, and bearing in mind the costs and benefits of proposed measures.

3. The legitimate needs which the guidelines are intended to meet are the following:

(a) The protection of consumers from hazards to their health and safety;

(b) The promotion and protection of the economic interests of consumers;

(c) Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs;

(d) Consumer education;

(e) Availability of effective consumer redress;

(f) Freedom to form consumer and other relevant groups or organizations and the opportunity of such organizations to present their views in decision-making processes affecting them.

4. Governments should provide or maintain adequate infrastructure to develop, implement and monitor consumer protection policies. Special care should be taken to ensure that measures for consumer protection are implemented for the benefit of all sectors of the population, particularly the rural population.

5. All enterprises should obey the relevant laws and regulations of the countries in which they do business. They should also conform to the appropriate provisions of international standards for consumer protection to which the competent authorities of the country in question have agreed. (Hereinafter references to international standards in the guidelines should be viewed in the context of this paragraph.)

6. The potential positive role of universities and public and private enterprises in research should be considered when developing consumer protection policies.

III. GUIDELINES

7. The following guidelines should apply both to home-produced goods and services and to imports.

8. In applying any procedures or regulations for consumer protection, due regard should be given to ensuring that they do not become barriers to international trade and that they are consistent with international trade obligations.

A. Physical safety

9. Governments should adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, national or international standards, voluntary standards and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use.

10. Appropriate policies should ensure that goods produced by manufacturers are safe for either intended or normally foreseeable use. Those responsible for bringing foods to the market, in particular suppliers, exporters, importers, retailers and the like (hereinafter referred to as "distributors"), should ensure

that while in their care these goods are not rendered unsafe through improper handling or storage and that while in their care they do not become hazardous through improper handling or storage. Consumers should be instructed in the proper use of goods and should be informed of the risks involved in intended or normally foreseeable use. Vital safety information should be conveyed to consumers by internationally understandable symbols wherever possible.

11. Appropriate policies should ensure that if manufacturers or distributors become aware of unforeseen hazards after products are placed on the market, they should notify the relevant authorities and, as appropriate, the public without delay. Governments should also consider ways of ensuring that consumers are properly informed of such hazards.

12. Governments should, where appropriate, adopt policies under which, if a product is found to be seriously defective and/or to constitute a substantial and severe hazard even when properly used, manufacturers and/or distributors should recall it and replace or modify it, or substitute another product for it; if it is not possible to do so within a reasonable period of time, the consumer should be adequately compensated.

B. Promotion and protection of consumers' economic interests

13. Government policies should seek to enable consumers to obtain optimum benefit from their economic resources. They should also seek to achieve the goals of satisfactory production and performance standards, adequate distribution methods, fair business practices, informative marketing and effective protection against practices which could adversely affect the economic interests of consumers and the exercise of choice in the market-place.

14. Governments should intensify their efforts to prevent practices which are damaging to the economic interests of consumers through ensuring that manufacturers, distributors and others involved in the provision of goods and services adhere to established laws and mandatory standards. Consumer organizations should be encouraged to monitor adverse practices, such as the adulteration of foods, false or misleading claims in marketing and service frauds.

15. Governments should develop, strengthen and maintain, as the case may be, measures relating to the control of restrictive and other abusive business practices which may be harmful to consumers, including means for the enforcement of such measures. In this connection, Governments should be guided by their commitment to the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices adopted by the General Assembly in resolution 35/63 of 5 December 1980.

16. Governments should adopt or maintain policies that make clear the responsibility of the producer to ensure that goods meet reasonable demands of durability, utility and reliability, and are suited to the purpose for which they are intended, and that the seller should see that these requirements are met. Similar policies should apply to the provision of services.

17. Governments should encourage fair and effective competition in order to provide consumers with the greatest range of choice among products and services at the lowest cost.

18. Governments should, where appropriate, see to it that manufacturers and/or retailers ensure adequate availability of reliable after-sales service and spare parts.

19. Consumers should be protected from such contractual abuses as one-sided standard contracts, exclusion of essential rights in contracts, and unconscionable conditions of credit by sellers.

20. Promotional marketing and sales practices should be guided by the principle of fair treatment of consumers and should meet legal requirements. This requires the provision of the information necessary to enable consumers to take informed and independent decisions, as well as measures to ensure that the information provided is accurate.

21. Governments should encourage all concerned to participate in the free flow of accurate information on all aspects of consumer products.

22. Governments should, within their own national context, encourage the formulation and implementation by business, in cooperation with consumer organizations, of codes of marketing and other business practices to ensure adequate consumer protection. Voluntary agreements may also be established jointly by business, consumer organizations and other interested parties. These codes should receive adequate publicity.

23. Governments should regularly review legislation pertaining to weights and measures and assess the adequacy of the machinery for its enforcement.

C. Standards for the safety and quality of consumer goods and services

24. Governments should, as appropriate, formulate or promote the elaboration and implementation of standards, voluntary and other, at the national and international levels for the safety and quality of goods and services and give them appropriate publicity. National standards and regulations for product safety and quality should be reviewed from time to time, in order to ensure that they conform, where possible, to generally accepted international standards.

25. Where a standard lower than the generally accepted international standard is being applied because of local economic conditions, every effort should be made to raise that standard as soon as possible.

26. Governments should encourage and ensure the availability of facilities to test and certify the safety, quality and performance of essential consumer goods and services.

D. Distribution facilities for essential consumer goods and services

27. Governments should, where appropriate, consider:

(a) Adopting or maintaining policies to ensure the efficient distribution of goods and services to consumers; where appropriate, specific policies should be considered to ensure the distribution of essential goods and services where this distribution is endangered, as could be the case particularly in rural areas. Such policies could include assistance for the creation of adequate storage and retail facilities in rural centres, incentives for consumer self-help and better control of the conditions under which essential goods and services are provided in rural areas.

(b) Encouraging the establishment of consumer cooperatives and related trading activities, as well as information about them especially in rural areas.

E. Measures enabling consumers to obtain redress

28. Governments should establish or maintain legal and/or administrative measures to enable consumers or, as appropriate, relevant organizations to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Such procedures should take particular account of the needs of low-income consumers.

29. Governments should encourage all enterprises to resolve consumer disputes in a fair, expeditious and informal manner, and to establish voluntary mechanisms, including advisory services and informal complaints procedures, which can provide assistance to consumers.

30. Information on available redress and other dispute-resolving procedures should be made available to consumers.

F. Education and information programmes

31. Governments should develop or encourage the development of general consumer education and information programmes, bearing in mind the cultural traditions of the people concerned. The aim of such programmes should be to enable people to act as discriminating consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities. In developing such programmes, special attention should be given to the needs of disadvantaged consumers, in both rural and urban areas, including low-income consumers and those with low or non-existent literacy levels.

32. Consumer education should, where appropriate, become an integral part of the basic curriculum of the education system, preferably as a component of existing subjects.

33. Consumer education and information programmes should cover such important aspects of consumer protection as the following:

(a) Health, nutrition, prevention of food-borne diseases and food adulteration;

(b) Product hazards;

(c) Product labelling;

(d) Relevant legislation, how to obtain redress, and agencies and organizations for consumer protection;

(e) Information on weights and measures, prices, quality, credit conditions and availability of basic necessities; and

(f) As appropriate, pollution and environment.

34. Governments should encourage consumer organizations and other interested groups, including the media, to undertake education and information programmes, particularly for the benefit of low-income consumer groups in rural and urban areas.

35. Business should, where appropriate, undertake or participate in factual and relevant consumer education and information programmes.

36. Bearing in mind the need to reach rural consumers and illiterate consumers, Governments should, as appropriate, develop or encourage the development of consumer information programmes in the mass media.

37. Governments should organize or encourage training programmes for educators, mass media professional and consumer advisers, to enable them to participate in carrying out consumer information and education programmes.

G. Measures relating to specific areas

38. In advancing consumer interests, particularly in developing countries, Governments should, where appropriate, give priority to areas of essential concern for the health of the consumer, such as food, water and pharmaceuticals. Policies should be adopted or maintained for product quality control, adequate and secure distribution facilities, standardized international labelling and information, as well as education and research programmes in these areas. Government guidelines in regard to specific areas should be developed in the context of the provisions of this document.

39. Food. When formulating national policies and plans with regard to food, Governments should take into account the need of all consumers for food security and should support and, as far as possible, adopt standards from the Food and Agriculture Organization of the United Nations and the World Health Organization Codex Alimentarius or, in their absence, other generally accepted international

food standards. Governments should maintain, develop or improve food safety measures, including, inter alia, safety criteria, food standards and dietary requirements and effective monitoring, inspection and evaluation mechanisms.

40. Water. Governments should, within the goals and targets set for the International Drinking Water Supply and Sanitation Decade, formulate, maintain or strengthen national policies to improve the supply, distribution and quality of water for drinking. Due regard should be paid to the choice of appropriate levels of service, quality and technology, the need for education programmes and the importance of community participation.

41. Pharmaceuticals. Governments should develop or maintain adequate standards, provisions and appropriate regulatory systems for ensuring the quality and appropriate use of pharmaceuticals through integrated national drug policies which could address, inter alia, procurement, distribution, production, licensing arrangements, registration systems and the availability of reliable information about pharmaceuticals. In so doing, Governments should take special account of the work and recommendations of the World Health Organization on pharmaceuticals. For relevant products, the use of that organization's Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce and other international information systems on pharmaceuticals should be encouraged. Measures should also be taken, as appropriate, to promote the use of international non-proprietary names (INNs) for drugs, drawing on the work done by the World Health Organization.

42. In addition to the priority areas indicated above, Governments should adopt appropriate measures in other areas, such as pesticides and chemicals, in regard, where relevant, to their use, production and storage, taking into account such relevant health and environmental information as Governments may require producers to provide and include in the labelling of products.

IV. INTERNATIONAL COOPERATION

43. Governments should, especially in a regional or subregional context:

(a) Develop, review, maintain or strengthen as appropriate, mechanisms for the exchange of information on national policies and measures in the field of consumer protection;

(b) Cooperate or encourage cooperation in the implementation of consumer protection policies to achieve greater results within existing resources. Examples of such cooperation could be collaboration in the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programmes, joint training programmes and joint elaboration of regulations;

(c) Cooperate to improve the conditions under which essential goods are offered to consumers, giving due regard to both price and quality. Such cooperation could include joint procurement of essential goods, exchange of

information on different procurement possibilities and agreements on regional product specifications.

44. Governments should develop or strengthen information links regarding products which have been banned, withdrawn or severely restricted in order to enable other importing countries to protect themselves adequately against the harmful effects of such products.

45. Governments should work to ensure that the quality of the products and information relating to such products, does not vary from country to country in a way that would have detrimental effects on consumers.

46. Governments should work to ensure that policies and measures for consumer protection are implemented with due regard to their not becoming barriers to international trade, and that they are consistent with international trade obligations.

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HUMAN RIGHTS QUESTIONS

Suppression of the traffic in persons and of the exploitation of the prostitution of others

Report of the Secretary-General

SUMMARY

The Economic and Social Council, in resolution 1983/30 on the suppression of the traffic in persons and of the exploitation of the prostitution of others, made a number of recommendations to Member States on that subject. Among the recommendations were the ratification of international instruments and the adoption of measures aimed at preventing prostitution, increasing the number of women in the State's personnel having direct contact with the populations concerned, eliminating discrimination against prostitutes and facilitating their reabsorption into society, curbing the pornography industry and punishing all forms of procuring. Requests regarding these issues were also made to organs and organizations of the United Nations system. At the Council's request, the Secretary-General reported on the implementation of resolution 1983/30 to the Council at its first regular session of 1985 (E/1985/46), first regular session of 1990 (E/1990/33) and first regular session of 1991 (E/1991/18).

The Council in resolution 1991/35 requested the Secretary-General to submit a further report to it in 1992, on the steps taken to implement the recommendations contained in Council resolution 1983/30 by those Member States, United Nations organizations and other intergovernmental organizations that had not yet submitted such information. The present document contains information submitted pursuant to that request.

* E/1992/100.

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INTRODUCTION

1. In its resolution 1991/35 on the suppression of the traffic in persons, the Economic and Social Council requested the Secretary-General to submit a further report to the Council in 1992, on the steps taken to implement the recommendations contained in Council resolution 1983/30 by those Member States, United Nations organizations and other intergovernmental organizations that had not yet submitted such information. (The text of Economic and Social Council resolution 1983/30 is contained in the annex to the present report.)

2. Pursuant to that resolution, the Secretary-General, on 14 October 1991, addressed requests to Governments, United Nations organs, specialized agencies and intergovernmental organizations concerned for information on the steps taken to implement the recommendations in Council resolution 1983/30.

3. By 21 April 1992, replies had been received from the following States: Argentina, Burkina Faso, Cuba, Guinea and Tunisia.

4. Replies were also received from the Economic Commission for Latin America and the Caribbean, the Council of Europe, the European Parliament and the International Criminal Police Organization (Interpol). The Department for Special Political Questions, Regional Cooperation, Decolonization and Trusteeship, the United Nations Development Programme, the United Nations University, the World Bank, the World Intellectual Property Organization and the Organisation for Economic Cooperation and Development have indicated that they had no information to submit on this subject.

5. The present report is prepared pursuant to paragraph 3 of Council resolution 1991/35 and contains the substantive replies received.

6. The Secretary-General deems it appropriate to refer also to his previous reports on the implementation of Economic and Social Council resolution 1983/30 (documents E/1985/46, E/1990/33 and E/1991/18), which were submitted to the Council at its first regular sessions of 1985, 1990 and 1991. As indicated in those reports, a number of countries (Barbados, Belgium, Brunei Darussalam, Chad, Chile, Colombia, Czechoslovakia, El Salvador, the Federal Republic of Germany, Finland, Gabon, Iraq, Madagascar, Mexico, Netherlands, Norway, Pakistan, Portugal, Qatar, Rwanda, South Africa and Tunisia) had submitted information in connection with Council resolution 1983/30. Substantive replies on this subject had also been received from the Department of Public Information, the Division for the Advancement of Women, the Economic Commission for Africa, the Economic Commission for Latin America and the Caribbean, the United Nations Children's Fund, the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organisation, the Commission of the European Communities, the Organization of American States, the World Tourism Organization and Interpol. The information contained in those replies was transmitted to the Working Group on Contemporary Forms of Slavery of the

Subcommission on Prevention of Discrimination and Protection of Minorities for consideration at its tenth, eleventh, fifteenth and sixteenth sessions.

7. Any additional replies will be issued as addenda to the present report.

I. INFORMATION RECEIVED FROM STATES

A. Argentina

[Original: Spanish]

[11 March 1992]

Norms of domestic law

1. National Constitution. Article 15: "In the Argentine Nation there are no slaves ... Any contract for the purchase or sale of persons is a crime for which those committing it, and the notary or official authorizing it, shall be responsible." Article 17: "No personal service can be required except by virtue of a law or a sentence based on law."

2. Penal Code. Forced labour is not included among the penalties established by the Penal Code (rigorous imprisonment, ordinary imprisonment, fines and disqualification). Article 140: "Anyone who reduces another person to servitude or to any similar condition, and anyone who receives such a person in that condition for the purpose of maintaining him or her therein, shall be sentenced to 3 to 15 years' rigorous or ordinary imprisonment." Article 6: "A sentence of rigorous imprisonment for life or for a lesser period shall be served by means of compulsory labour in penal institutions intended for that purpose. Prisoners may be employed in public works of any kind, so long as they are not employed by individuals." Article 9: "A sentence of ordinary imprisonment for life or for a lesser period shall be served by means of compulsory labour in institutions other than those intended for prisoners serving sentences of rigorous imprisonment."

Parliamentary bills

3. Prostitution

(1) Replacement of article 17 of Act No. 12,331 (Prevention of Prostitution Act).

House of Deputies - Bill: Cortese, L., 27 June 1985, p. 1612: "Anyone who, overtly or covertly, supports, administers or oversees, a house of prostitution shall be fined. In case of recidivism, the offender shall be sentenced to one to three years' ordinary imprisonment."

(2) Replacement of article 17 of Act No. 12,331.

House of Deputies - Bill: Fino, Torcuato E., 17 April 1986, p. 8445. The fine imposed for the offence of procuring is being updated.

(3) Amendments to article 17 of Act No. 12,331.

House of Deputies - Bill: Horta, J. L., 17 December 1986, p. 7648. If the person convicted of the offence of procuring is a naturalized citizen, the consequence of imprisonment shall be loss of citizenship and expulsion from the country, once sentence has been served; likewise expulsion shall be the penalty if the offender is an alien.

(4) Inclusion of the offence of pimping. Replacement of articles 125 and 126 of the Penal Code. Inclusion of articles 125 bis, 126 bis and 127 ter. Abrogation of article 17 of Act No. 12,331.

House of Deputies - Bill: Contreras Gómez, C., 31 August 1988, p. 685. Anyone who derives even partial support from the earnings of a person of either sex who engages in prostituion shall be sentenced to rigorous or ordinary imprisonment for two to six years and fined.

(5) Amendments to articles 125 and 127 of the Penal Code; inclusion of articles 127 bis and ter (Corruption and indecent assault of minors).

House of Deputies - Bill: Díaz de Aguero, F., 23 October 1987, p. 1546. This bill endeavours to respond to the need for effective suppression and punishment of offences involving the corruption and indecent assault of minors and characterizes the conduct of White slave traffickers, procurers and pimps as unlawful. Penalties have been increased; the bill envisages the situation of a victim who is incompetent and who, because of her disability and vulnerability, is unable to resist the deceitful conduct of the sex merchants. The bill further envisages such consequences as fines and general disqualification.

(6) Rules for updating the fines under Act No. 12,331.

House of Deputies - Bill: Cortese, L., et al., 27 September 1990, p. 462. The amounts of the fines shall be updated every six months by the Executive in accordance with changes in the general wholesale price index published by the National Institute for Statistics and Censuses.

4. Sale of babies and other persons:

(a) Offences against civil status:

(i) Inclusion of article 139 bis in the Penal Code.

House of Deputies - Bill: Briz de Sánchez, Onofre, et al., 30 October 1986, p. 2798. This bill sets forth a penalty for anyone who promotes or facilitates the handing over to third parties of a minor under 10 years of age by his parents or guardians for the purpose of changing his civil status;

(ii) Amendment to articles 138 (Change of identity) and 146 of the Penal Code. Inclusion in the Penal Code of articles 145 bis and 146 bis.

House of Deputies - Bill: Alberti, Lucía, 16 August 1988, p. 1946. This bill replaces article 138 of the Penal Code by another article which proposes to delete intention to cause harm as a necessary component of wrongful act. The bill proposes to include article 145 bis, which refers to aggravating factors, such as profit and organization with a view to committing the act. Article 146 covers the offence of handing over to third parties and extends it to include anyone who collaborates in the commission of the act. Article 146 bis deals with the offence of incitement to deliver a minor to third parties without the intervention of the competent authorities;

(iii) Changing the caption "Offences against civil status" (Book II, Title IV of the Penal Code) to "Offences against the family".

House of Deputies - Bill: Contreras Gómez, Carlos, 19 August 1988, p. 1999. This bill sets forth a penalty for unlawful marriages, assaults on the integrity of the family, non-fulfilment of family-support obligations, etc. Draft article 139 of the Penal Code provides that anyone who, in any way, contributes to a false entry in the civil registry shall be sentenced to from two to six years' ordinary imprisonment. Article 139 bis sets forth the same prison sentence for any physician or midwife who abuses his or her professional capacity by being an accessory to such an offence, plus a disqualification of from two to eight years.

(b) Offences against liberty:

(i) Replacement of article 140 of the Penal Code.

House of Deputies - Bill: Allegrone de Fonte, Norma, 10 October 1986, p. 2465. Anyone who reduces another person to servitude or to any similar condition, maintains such a person in that condition or concludes a contract for the sale of persons shall be sentenced to from three to 15 years' rigorous imprisonment. If the offence involves the exploitation of a minor under 16 years of age, the penalty shall be from 5 to 20 years' rigorous imprisonment;

(ii) Inclusion in the Penal Code of article 145 bis.

House of Deputies - Bill: Briz de Sánchez, Onofre, 30 October 1986, p. 2798. This article sets forth the penalty for anyone who promotes or facilitates the transport of a minor under 10 years of age across the borders of the Republic for the purpose of changing his civil status;

(iii) Inclusion in the Penal Code of articles 140 bis, ter, quater and quint (Sale of persons).

House of Deputies - Bill: Contreras Gómez, C., 2 May 1988, p. 23. By including the offence of sale of persons in the Penal Code, this bill defines a basic offence, in accordance with article 15 of the Constitution. It provides for two types of mitigating circumstances, namely, where the mother is not married and is prompted by desperate economic straights, and where the others involved are motivated by the wish to adopt the victim as their own child. It also provides for two types of aggravating circumstances, namely, where one of the parents is a party to the sale of a baby, and where the transaction involves an organization which makes a practice of engaging in such transactions. Specific mention is made of doctors, midwives, nurses and public officials who, in addition to receiving a custodial penalty, are disqualified for a period twice the length of their sentence;

(iv) Inclusion in the Penal Code of articles 140 bis and ter.

House of Deputies - Bill: Salduna, Bernardo, 16 June 1988, p. 1086. This bill sets forth the penalty for anyone who, motivated by the desire for profit, promotes, facilitates or is involved in the adoption or fraudulent registering of minors; where the operation involves an organization which makes a practice of committing such wrongful acts, the penalty is increased;

(v) Inclusion in the Penal Code of articles 140 bis and ter (Sale of babies).

House of Deputies - Bill: Freytes, Carlos, 15 February 1988, p. 2418. This bill sets forth a penalty of from three to six years' ordinary imprisonment for anyone who, motivated by the desire for profit, promotes and/or facilitates the adoption of babies, or their fraudulent registration by the adoptive parents. The sentence shall be increased by one third if the traffic is initiated by someone involved in a professional capacity or by a relative, or if situations of extreme poverty are exploited;

(vi) Inclusion in the Penal Code of articles 140 bis, ter and quater.

House of Deputies - Bill: Cortese, Lorenzo, 5 September 1990, p. 3356. This bill provides that anyone who, in any way, carries out a transaction the purpose of which is to dispose of and purchase persons shall receive a sentence similar to that imposed for reducing a person to servitude;

(vii) Inclusion in the Penal Code of articles 140 bis and ter (Abduction of minors).

House of Deputies - Bill: Avila, Mario E., 19 September 1990, p. 3839. Anyone who abducts a minor from the care of his parents, tutors, guardians or persons entrusted with his care for the purpose of selling him or handing him over to third parties within the country or abroad, shall be sentenced to from three to 10 years' ordinary imprisonment. Anyone who, with full knowledge of the facts, receives or hands over the abducted minor to third parties shall incur the same penalty.

B. Burkina Faso

[Original: French]

[6 March 1992]

Conventions signed and ratified

1. Burkina Faso has neither signed nor ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others nor the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications.

2. However, it has signed and ratified the following conventions:

(a) Convention on the Elimination of All Forms of Discrimination against Women. Ratification of this Convention was authorized and effected by two texts:

(i) Order No. 84/77/CNR/PRES of 28 November 1984 authorizing the ratification of the Convention on the Elimination of All Forms of Discrimination against Women;

(ii) Decree No. 84-468/CNR/PRES/REC of 28 November 1984 ratifying the Convention on the Elimination of All Forms of Discrimination against Women;

(b) Convention on the Rights of the Child: Burkina Faso signed this Convention on 26 January 1990. The Council of Ministers adopted two texts on 4 July 1990:

(i) Zatu No. AN VII-0045/FP/PRES of 23 July 1990 authorizing the ratification of the Convention on the Rights of the Child;

(ii) Kiti No. AN VII-03832/FP/PRES of 23 July 1990 ratifying the Convention on the Rights of the Child.

The instrument of ratification was deposited on 31 August 1990.

3. These two Conventions contain specific provisions for protection against exploitation. For example, the Convention on the Elimination of All Forms of Discrimination against Women stipulates that the States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. The Convention on the Rights of the Child provides for protection of children from any unlawful sexual activity and from exploitative use in prostitution or other unlawful sexual practices in pornographic performances and materials.

4. A number of measures have been or are being taken in implementation of these two conventions.

Political measures

5. In 1990, strategies were adopted to combat solicitation for prostitution and to restrict access of minors to places of entertainment. A national commission, comprising representatives from all the ministries concerned as well as from community groups, was set up to coordinate and monitor operations; the latter are based on two strategies:

(a) Provision of information and enhancing public awareness, particularly among young people. The information relates primarily to relevant national legislation.

(b) Implementation of existing laws.

6. A three-year programme, covering 1991 to 1993, has been adopted, but financial difficulties are preventing activities from proceeding as planned.

7. Plans have been drawn up for the rehabilitation of prostitutes wishing to return to society, but to date the necessary financing has not been forthcoming. A planned survey of young women at risk is currently under negotiation with UNICEF. Many of the social workers employed by the Central and Provincial Technical Services responsible for rehabilitation are women and they deal directly with the prostitutes, enhancing their awareness and educating them in matters of health and how to protect themselves from sexually transmitted diseases and AIDS.

National legislation

8. The Act of 1946 which contains the text of the Penal Code prohibits procuring and soliciting for purposes of prostitution. It sets forth penalties for soliciting, whether passively or actively, and penalties to deter people from engaging in procuring.

9. However, it is proving difficult to enforce this law, in the light of certain realities. Often procuring is indirect rather than open. The police sometimes round up the prostitutes in order to keep soliciting under control, notably in city centres.

10. A revision of the Penal Code is under way. The draft new code contains specific provisions covering indecent assault, rape, debauchery, prostitution and procuring. The penalties are more severe if the victim is a minor.

C. Cuba

[Original: Spanish]

[10 January 1992]

1. Economic and Social Council resolution 1991/35 on suppression of the traffic in persons addresses a problem of great topical concern to society in many countries of the world, but one that is absent from the development continuum of Cuban society. None the less, various legal bodies in our country are considering how to prevent or suppress any attempt to traffic in persons, for the whole effort of the Cuban State tends towards the goal that every man or woman who is able to work shall have the opportunity to have a job with which to contribute to the good of society and to the satisfaction of individual needs; that no child shall be left without schooling, food and clothing; that no young person shall be left without the opportunity to study; and that no one shall be left without access to studies, culture and sports (article 8 (b) of the Constitution of the Republic of Cuba).

2. Specifically, the Cuban State has placed great emphasis on integrating women into social endeavours, which undoubtedly helps them to achieve full equality. Similarly, such matters as maternity, adoption, the right to family planning, labour questions and child care issues have been studied and have given rise to new laws suited to Cuban reality which, by creating various institutions, facilitate greater participation of women in building a better society.

3. Article 43 of the Constitution provides, inter alia, that women have the same rights as men in the economic, political and social fields as well as in the family.

4. Considering all of the Cuban State's efforts to facilitate the integration of all citizens into the life of society, any criminal or antisocial behaviour is particularly reprehensible. Article 73.1 (c) of the Cuban Penal Code defines danger to society in terms of antisocial behaviour. Thus anyone who habitually breaks the rules of social coexistence, lives as a social parasite, practises or profits from socially reprehensible vices may be subjected to security measures that include therapeutic measures, rehabilitation or surveillance by law enforcement officials (article 78).

5. Title XI of the Penal Code, which deals with crimes against the normal development of sexual relations and against the family, children and youth, protects the family and provides, in its article 308, that the abduction or substitution of a child shall be punishable by imprisonment for from six months to two years. If the act was committed for profit, imprisonment may be

for two to five years. At the same time, the law provides for imprisonment of two to five years for corruption of minors.

6. There are other laws that protect minors, such as the Family Code of 14 February 1975 and the Code on Children and Young People of June 1978. The latter establishes institutions that provide complete child-care facilities and that seek to develop all children's capacities and provide them with a happy childhood in harmony with their environment and family and society in general.

7. In addition, article 29 of this Code refers to special State care, provided through specialized schools, for minors with physical or mental handicaps or behavioural problems.

8. The Cuban State has made important progress in this area by promulgating Decree-Laws Nos. 95, 64 and 76, on prevention and social care commissions, a system for the care of minors with behavioural disorders, and adoption, children's homes and foster families, respectively.

9. The main thrust of the prevention and social care commissions is to prevent and modify antisocial behaviour among dissident minors, youth and family members and to prevent such behaviour among dissident adults and family members and to rehabilitate them. These commissions also seek to encourage people to become involved in prevention and social care endeavours and to promote public awareness of their objectives; to promote the policy of care and to get children and young people who have dropped out of school and the workforce back in, and to encourage the relevant bodies, agencies and organizations to take steps to help citizens, particularly children, adolescents and young people, to use their free time constructively.

10. Again, with a view to enforcing Decree-Law No. 64 of 1982, systematic checks are run on the organization and functioning of schools for minors with behavioural disorders and reform schools.

11. To that end, numerous investigations are carried out so as to gauge the seriousness of the family difficulties, if any, and to determine whether there have been any gaps or deficiencies in their education and whether the youngsters have received sufficient attention.

12. Provision has been made for the creation of social assistance centres to house and care for minors in exceptional circumstances, those who have been abandoned by their family or have no relatives at all; they are provided with home-like living conditions. There are also foster families that help these centres house and care for orphaned and abandoned children on weekends, during vacations and at other times.

13. Cuban law also punishes the crime of apartheid, as recommended by resolution 1991/35. Article 120 of the existing penal code establishes the penalties to be imposed on anyone who, with a view to instituting and maintaining the domination of one racial group over another, seeks to deprive

the latter of the right to life and liberty; to prevent it from participating in political, social, economic and cultural life; to divide the population along racial lines or to exploit the work of the members of the group, particularly by subjecting them to forced labour.

14. All of these mechanisms created by the revolutionary Government help us to keep our society free of such disgraces, which are also condemned by the international community.

D. Guinea

[Original: French]

[7 January 1992]

1. With respect to the measures taken to give effect to the recommendations in paragraphs 1, 2, 3 and 4 of Council resolution 1983/30, it should be noted, as regards paragraph 1 of the resolution, that the Republic of Guinea has been a party to the relevant Convention since 26 April 1962.

2. In implementation of the Convention, the Guinean Penal Code of 1975 provides, in articles 285 to 287, penalties for any sexual act obtained from a female person by the use of violence towards her and without her consent.

3. The Penal Code also contains a series of articles (288 to 290) relating to incitement to immoral behaviour.

4. In article 289, the Code provides that

(a) whoever in any way shares the proceeds of another's prostitution or receives monies from a person habitually engaged in prostitution, or

(b) serves as an intermediary in any capacity between persons engaged in prostitution or debauchery and persons who exploit or reward another's prostitution or debauchery,

shall be considered a procurer and shall be liable to a term of imprisonment of six months to two years and to a fine of 40,000 to 400,000 Guinean francs, severer penalties being always possible where warranted.

5. A sentence of two to five years' imprisonment and a fine of 100,000 to 1 million Guinean francs shall be imposed in cases where:

(a) the offence involves a minor;

(b) the offence involves duress, abuse of authority or deceit.

6. With regard to paragraph 2 of resolution 1983/30, as the Republic of Guinea is not a party to the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, concluded at Geneva on

12 September 1923, as amended by the Protocol signed at Lake Success, New York on 12 November 1947, it is considering the possibility of acceding to it. The Under-Secretary-General for human rights will be notified as soon as possible.

7. With regard to paragraph 3, the recommendations in that paragraph will be taken into account when the Republic of Guinea is admitted as a State party to the Convention.

8. However, a number of these recommendations are already reflected in national legislation as well as in administrative practice. A case in point is the programme Santé pour tous (health for all) broadcast during civics courses in schools. Similarly, a national directorate comprising the vice and narcotics squads has been created at the level of the Ministry of National Defence and Security. Education and awareness programmes in the national languages are being put together for radio and television to help fight the pornography industry and trade.

9. With respect to paragraph 4, the Republic of Guinea is working together with the International Criminal Police Organization (Interpol) and is very encouraged by the results of that collaboration.

E. Tunisia

[Original: French]

[23 March 1992]

1. With regard to the issue of slavery, it should be pointed out that slavery was abolished in Tunisia as early as the nineteenth century. A decree dated 23 January 1846 provided for criminal sanctions for anyone convicted of involvement in the slave trade.

2. Having obtained its independence and proclaimed its attachment to human dignity, justice and liberty (preamble to the Constitution) and guaranteed the inviolability of the human person, Tunisia acceded, in 1966, to the Slavery Convention (of 25 September 1926), as amended by the Protocol of 7 December 1953, and to the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (of 7 September 1956).

3. By acceding to these Conventions Tunisia was merely confirming that slavery no longer existed.

4. With respect to the issue of the suppression of the traffic in persons, it should be pointed out that, anxious to protect the individual from all forms of violence, including, from any improper conduct by those holding public office, Tunisian positive law establishes severe penalties for anyone who engages in such practices. The Penal Code envisages a variety of cases:

(a) Article 101 provides for a penalty of five years' imprisonment plus a fine for any public official or similar person who, in the exercise of his functions and without legitimate motive uses violence or causes violence to be used against an individual;

(b) The same penalty applies to a public official who unlawfully violates the personal liberty of others or who engages, or causes others to engage, in violence against or ill-treatment of the accused in order to obtain a confession or statement (article 103);

(c) Threats of violence or of ill-treatment by an official carry a penalty of six months' imprisonment (article 103).

5. Furthermore, officials who are found guilty of violence towards individuals or of torture, may be stripped of certain rights, such as the right to hold public office, the right to vote, to bear arms or any official honorific insignia (article 115).

6. The fact that a person is an official therefore affects the determination of the penalty if violence is used, that position being, in a way, an aggravating circumstance from which the legislator draws the conclusions. These penalties therefore apply in cases of violence, torture, cruel treatment during the course of an investigation or examination, and in general when people are deprived of their liberty.

7. In 1987, desiring to provide still further protection against any attack, the Tunisian legislator amended certain articles of the Code on Penal Procedure with a view to limiting the time spent in police custody strictly to the time necessary for the investigation (Act No. 87-70 of 26 November 1987). This limitation is, in itself, a guarantee.

8. The above-mentioned Act gives individuals who are in the custody of members of the Criminal Investigation Department the right to ask to be given a medical examination while in custody or upon their release. It requires the above-mentioned officials to mention such requests in the record of the statement.

9. The purpose of this provision is to enable anyone who is held in custody to have any violence to which he may have been subjected while in custody placed on record and in that case to have the sanctions provided for in the Penal Code - and which have been described above - applied. There is no doubt that this provision has a deterrent effect.

10. Furthermore, with a view to the consolidation and effective implementation of the principle of the dignity and inviolability of the human person, several legal reforms have been adopted.

11. The Court of State Security which did not offer defendants all the guarantees to which they were, in theory, entitled, has been abolished (Act No. 87-72 of 26 November 1987), as has the post of Attorney General of the Republic (Procureur général de la République) who was the instrument for

interference in the affairs of justice and who thereby jeopardized its independence and fairness (Act No. 87-80 of 29 December 1987).

12. The penalty of forced labour has been abrogated, because of its degrading nature (Act No. 89-23 of 27 February 1989).

13. Tunisia acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without expressing the slightest reservation regarding its provisions, thereby unequivocally agreeing to submit to such measures of investigation as the United Nations Committee against Torture might take (Act No. 88-79 of 11 July 1988).

14. It should be pointed out that, on 25 April 1990, in Geneva, after hearing the report of Tunisia, the United Nations committee which is responsible for monitoring the implementation of the said Convention by the signatory countries expressed its satisfaction with the steps being taken to consolidate human rights in Tunisia. It also solemnly congratulated the Government and people of Tunisia for what had already been done and thanked President Zine El Abidine Ben Ali for his determination to work towards complete respect for human rights.

15. Tunisia also submitted its report to the African Commission on Human and People's Rights, knowing that only 4 of the 42 countries which have ratified the African Charter have honoured their commitments and submitted a report at the proper time.

16. It should also be pointed out that respect for human rights is now an integral part of training programmes for law enforcement officials.

17. In addition, a special bureau has been opened in the Ministry of the Interior for citizens wishing to file complaints regarding possible violations of their rights.

18. The Government's concern to ensure that the law is enforced is also reflected in the sentences imposed on certain agents of the Criminal Investigation Department found guilty of abuse of power.

19. It should also be pointed out that Tunisian legislation provides for more than one remedy to guarantee respect for individual rights and compensation for any violations thereof. In fact, anyone who suffers injury as a result of a violation of human rights by representatives of the authorities may institute an action against the latter in the competent courts to collect compensation for the injury suffered.

20. This possibility was introduced in 1888 by a decree promulgated on 27 November 1888 by the Bey of Tunis (article 1 thereof). It was subsequently confirmed by the Act of 1 June 1972 establishing the Administrative Court.

21. Article 84 of the Tunisian Civil Code, which was promulgated on 15 December 1906, provides for the same opportunity stating that civil liability applies to the State, even from the standpoint of its

administration, bearing in mind its general right of oversight, as well as to municipal administrations and other public administrations, for any act or error committed by their representatives, agents and officials, in the exercise of the duties entrusted to them.

22. As to the question concerning suppression of the exploitation of the prostitution of others, it should be pointed out that, since prostitution and its attendant evil, namely, traffic in human beings for purposes of prostitution, are incompatible with the dignity and value of the human being and jeopardize the well-being of the individual, the family and the community, Tunisian positive law severely suppresses use of such practices.

23. The Penal Code provides for a number of cases:

(a) Women who by their gestures or words, offer themselves to passers-by or engage in prostitution, even on a casual basis, are liable to a penalty of between six months and two years in prison and a fine of between 20 and 200 dinars. Anyone who has had sexual relations with any of these women is considered an accomplice and is liable to the same penalty (article 231);

(b) The following shall be considered a procurer and shall be liable to between one and three years in prison and a fine of between 100 and 500 dinars:

(i) Anyone who, in any way, knowingly aids, protects or abets another's prostitution or soliciting with a view to prostitution;

(ii) Anyone who in any way shares the proceeds of the prostitution of another or receives subsidies from a person habitually engaging in prostitution;

(iii) Anyone who, living with someone they know to be habitually engaged in prostitution, cannot prove they have sufficient resources to cover their living expenses on their own;

(iv) Anyone who engages, trains or maintains a person, including an adult, with a view to prostitution or who forces them into prostitution or into debauchery;

(v) Anyone who acts as an intermediary, in any capacity, between persons engaging in prostitution or debauchery and individuals who exploit or remunerate the prostitution or debauchery of others (article 252);

(c) The penalty shall be imprisonment of between three and five years and a fine of 500 and 1,000 dinars if:

(i) The offence involves a minor;

(ii) The offence is accompanied by duress, abuse of authority or deceit;

(iii) The perpetrator of the offence carries an open or concealed weapon;

(iv) The perpetrator of the offence is the husband, ascendant or guardian of, or has authority over, the victim or if he is the victim's hired servant or a teacher, official or minister of the cloth or if he has been assisted by one or more person(s) (article 233).

24. It should be pointed out that the penalties provided for under articles 232 and 233 of the Penal Code apply even if the various acts which constitute the violations were committed in other countries.

25. Similarly, those guilty of the above-mentioned violations will be banned for up to 10 years (article 235 of the Penal Code).

26. In view of what has been stated and if, as Giorgio del Vecchio said in an essay on political philosophy entitled "L'Etat et le droit", a State subject to the rule of law is defined as a State whose main function is to protect individual rights, then the Tunisian State richly deserves that definition.

27. With a view to further safeguarding fundamental human rights, a higher committee on human rights and fundamental freedoms was established on 9 April 1991 thus reflecting, according to the words of President Ben Ali a profound faith in the sacred nature of human rights and fundamental freedoms. To guarantee these rights and freedoms to citizens is to ensure their effective and thoughtful participation in the achievement of development and in the strengthening of the foundations of a healthy, balanced and open society.

28. In that context and with a view to coordinating the action undertaken to promote human rights, on 19 June 1991 President Ben Ali decided to establish the post of Principal Adviser to the Chief of State responsible for Human Rights.

II. INFORMATION SUBMITTED BY UNITED NATIONS ORGANS, SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS

A. Economic Commission for Latin America and the Caribbean

[Original: English/Spanish]

[27 December 1991]

1. The Economic Commission for Latin America and the Caribbean (ECLAC) has submitted summaries of material available in its library on the topics of prostitution and exploitation of minors in countries of Latin America and the Caribbean.*

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* Available for consultation in the files of the Secretariat.

B. Council of Europe

[Original: French]

[18 December 1991]

1. In September 1991, the Council of Europe organized a seminar on action against traffic in women and forced prostitution as violations of human rights and human dignity.

2. In all probability the study of this issue will be continued within the Council of Europe in the context of a working group of the Steering Committee for Equality between Women and Men.

C. European Parliament

[Original: French]

[8 January 1992]

1. The European Parliament has submitted a number of its documents relating to the issues raised in Economic and Social Council resolution 1983/30, including child pornography (written question No. 2939/90), child prostitution (written question No. 65/90), decriminalization of prostitution (written question No. 817/89), implementation of article 16 of the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (written question No. 2202/88). Also submitted was the text of its resolutions on the exploitation of prostitution and the traffic in human beings of 14 April 1989 and on the disappearance into prostitution of young girls in refugee camps in South-East Asia of 17 October 1980.*

D. International Criminal Police Organization

[Original: English]

[27 December 1991]

1. In consequence of the radical changes in Eastern Europe, most police forces in Western Europe have reported a growing number of prostitutes coming from the East, including the former Soviet Union. According to our National Central Bureaus in Germany and Luxembourg, the bulk of the women are recruited in their countries as models, dancers or waitresses and then brought into prostitution against their will. For this reason, the National Central Bureau in France is carrying out a study on the phenomenon, which is expected to be completed in the middle of 1992.

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* Available for consultation in the files of the Secretariat.

Annex

ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1983/30 ON THE SUPPRESSION OF THE TRAFFIC IN PERSONS AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS

The Economic and Social Council,

Recalling that the enslavement of women and children subjected to prostitution is incompatible with the dignity and fundamental rights of the human person,

Recalling its resolution 1982/20 of 4 May 1982,

Having taken note of the report prepared by the Special Rapporteur in pursuance of that resolution, a/

1. Again invites Member States to sign, ratify and implement the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; b/

2. Also invites Member States to sign, ratify and implement the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, concluded at Geneva on 12 September 1923, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947; c/

3. Recommends that Member States should take account of the report of the Special Rapporteur and draw up, subject to their constitutions and legislation and in consultation with the parties concerned, policies aimed, to the extent possible, at:

(a) Preventing prostitution by moral education and civics training, in and out of school;

(b) Increasing the number of women among the State's personnel having direct contact with the populations concerned;

(c) Eliminating discrimination that ostracizes prostitutes and makes their reabsorption into society more difficult;

(d) Curbing the pornography industry and the trade in pornography and penalizing them very severely when minors are involved;

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a/ E/1983/7 and Corr.1 and 2.

b/ General Assembly resolution 317 (IV), annex.

c/ United Nations Treaty Series, vol. 46, No. 710, p. 201.

(e) Punishing all forms of procuring in such a way as to deter it, particularly when it exploits minors;

(f) Facilitating occupational training for and the reabsorption into society of persons rescued from prostitution;

4. Further invites Member States to co-operate closely with one another in the researh for missing persons and in the identification of international networks of procurers and, if they are members of the International Criminal Police Organization, to co-operate with that organization, requesting it to make the suppression of the traffic in persons one of its priorities;

5. Invites the regional commissions to help Member States and United Nations bodies wishing to organize regional expert meetings, seminars or symposia on the traffic in persons;

6. Suggests to the Secretary-General that he designate as a focal point the Centre for Human Rights, specifically the secretariat of the Working Group on Slavery, in close co-operation with the Centre for Social Development and Humanitarian Affairs of the Department of International Economic and Social Affairs;

7. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider the possibility of inviting the Commission on the Status of Women to designate a representative to participate in all sessions of the Working Group on Slavery, in accordance with Economic and Social Council resolution 48 (IV) of 29 March 1947;

8. Requests the Centre for Human Rights to prepare, in liaison with the United Nations agencies and organs concerned and with the competent non-governmental organizations, two complementary studies: one on the sale of children and the other on the legal and social problems of sexual minorities, including male prostitution, and to submit those studies as soon as possible to the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

9. Encourages the Centre for Social Development and Humanitarian Affairs of the Department of International Economic and Social Affairs to utilize the available resources of all its branches with a view to undertaking interdisciplinary studies, and to co-operate with the Division of Narcotic Drugs;

10. Invites all the organs, organizations and agencies of the United Nations system concerned, particularly the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the International Labour Organisation and the World Health Organization, to bring the traffic in persons to the notice of their representatives and experts and to transmit their observations and their studies to the focal point designated by the Secretary-General;

11. Encourages the United Nations Educational, Scientific and Cultural Organization to draw up, with member States, programmes for use in schools and in the media concerning the image of women in society;

12. Invites the World Tourism Organization to place the question of sex-oriented tourism on its agenda;

13. Requests the Secretary-General to take the necessary steps to have the report prepared by the Special Rapporteur in pursuance of Council resolution 1982/20 reproduced as a United Nations publication so that it may be widely disseminated;

14. Also requests the Secretary-General to report to the Economic and Social Council, at its first regular session of 1985, on the steps taken to implement the present resolution;

15. Decides that the activities recommended in the present resolution will be carried out within the limits of the resources provided for by the Secretary-General in the proposed programme budget for the biennium 1984-1985.

14th plenary meeting
26 May 1983